

input around that and determine that the right data actually got into the system, such as time stamps and a variety of other things.

Jumping ahead to page 16, once we did the application testing, we actually then in turn did what we call the code review or business rules interpretation. This is actually looking at the actual code within the applications and how they coded the inclusions and the exclusions.

We did this for each of the 55 PMs that we tested, and we actually walked through the individual code line by line with Southwestern Bell programmers to make sure that we understood exactly what data was included or

excluded and make sure that interpretation agreed with the business rule Version 1.6.

We also leveraged our national statistician's practice out of Washington, D.C. in this area who has done a bunch of work related to this for other CLECs, RBOCs, et cetera. So we used them to kind of make sure that the appropriateness of the inclusions and exclusions was consistent with what we've seen elsewhere and in agreement with the rules Version 1.6.

Page 17 is an actual example of what we did. This is PM 32 and we're talking business rules. We have the exclusion, the disaggregation and the calculation on the left-hand side, the actual code with the explanation on the right. So we have a document like this for every single one of the PMs that we tested.

On page 18, once we did the code review, then we perform what we call a recalculation for the 55 PMs. We did this for a sample of the months April, May and June. The recalculation, we basically obtained the data from the intermediate systems after the business rules had been applied, but we recreated our own database and model recalculation spread sheet to determine if we came up with the same answer.

Once we had the calculation of the PM, we then compared that to the CLEC website to see what was actually

posted and investigated any differences or anomalies.

In addition, in this area, once again we also leveraged the national statisticians group in Washington, D.C. to validate the models and the calculations that we came up with to make sure we interpreted the business rules correctly as well.

In this area, we actually tested both Southwestern Bell and CLEC data in here. Page 19 is kind of

9 an example using PM 32 as well, just kind of showing you  
10 some of the EY calculation in the middle column,  
11 Southwestern Bell calculation there and any difference that  
12 came out. The tickmark on the end where it says W/O/E,  
13 that's answer without exception.

14 In addition, once we've done the recalcs and  
15 the code review, we also did a couple of other procedures  
16 around the processes and the data to make sure we had  
17 comfort in what was going on. We assessed the general and  
18 information technology controls, primarily security. We  
19 were looking at application, transaction and specific bullet  
20 file or data set security.

21 We polled numerous reports from Southwestern  
22 Bell to validate who can actually change the data through  
23 all the flow.

24 In addition, as I mentioned earlier, we  
25 performed an analytical review of all 102 PMs. We sampled

2711  
1 and detail tested 55, but we also did the trend analysis of  
2 102 for the three-month period to determine if any anomalies  
3 or irregularities in the data showed up. Then we would  
4 investigate anything with Southwestern Bell as part of that.

5 We also reviewed all PM restatements made by  
6 Southwestern Bell from the time of April through October  
7 2000. These would be any errors that Southwestern Bell made  
8 or differences in opinion that were reposted on the CLEC  
9 website. We investigated every single one of those.

10 We also reviewed all the changes made by  
11 Southwestern Bell as part of our review and validated any  
12 changes they made. We followed up on any of the FCC issues  
13 that came up through our work from October through December  
14 of the previous year, 1999.

15 With that, I'll turn it back over to Brian to  
16 talk about the actual reports.

17 MR. HORST: The first report that I want to  
18 talk about is the performance measurement attestation  
19 examination. In this report, this is where we're reporting  
20 on management's assertion that their performance  
21 measurements comply with the business rules.

22 In this report, we express an opinion on the  
23 accuracy of management's assertion, and again this is an  
24 examination which is the highest level of assurance that we  
25 can give in an engagement of this nature.

2712  
1 The format that we followed for this report is  
2 the same format as we used for the FCC engagements on the  
3 merger compliance work and follows the AIC reporting  
4 guidance that we've attached to the back of this

5 presentation. It's actually in there as the very last page.

6 In this report, our conclusion is, is that  
7 Southwestern Bell Telephone Company's assertion is fairly  
8 stated in all material respects, and with exception of the  
9 certain instances of noncompliance that were noted by  
10 management in their assertion.

11 And through our process, through our  
12 engagement and through our reporting process what we do is  
13 we go through and review that assertion in great detail,  
14 compare it to the findings that we've come up with and  
15 ensure that what they're saying in their assertion is  
16 appropriate.

17 If it was not saying something that we  
18 determined was appropriate, we would have to mention that  
19 separately in our report. Our report and management's  
20 assertion go hand in hand. It's like the financial  
21 statements in an audit are attached to it.

22 Additionally, we looked at the corrective  
23 action that the company had indicated in their assertion  
24 that they were doing, and we concurred with the approaches  
25 that they have taken.

2713  
1 The second report again is on the performance  
2 measurements, and instead of relating to the accuracy and  
3 compliance with business rules, this report addressed the  
4 actual controls to ensure that the company complied with  
5 those rules.

6 And in this report again is another  
7 examination of highest level of assurance, same format we  
8 used with the FCC, and comes to the conclusion that  
9 Southwestern Bell Telephone Company has effective controls  
10 in total to produce accurate and complete performance  
11 measurements.

12 The last report that we issued is the capacity  
13 test. Capacity test again is an agreed-upon procedures  
14 report. In this report we are reporting the procedures that  
15 were performed which were designed by the Missouri Staff,  
16 along with the results that came about as a result of those  
17 procedures.

18 And one other part of our engagement. We were  
19 asked by the Missouri Staff to determine through our  
20 findings if additional procedures were deemed necessary in  
21 light of the findings from the initial procedures, and our  
22 conclusion was that the findings from the procedures  
23 performed did not indicate the need to perform additional  
24 agreed-upon procedures relative to Southwestern Bell  
25 Telephone Company's OSS capacity.

1           The last section we wanted to address is a few  
2 of the items from the RFP. In particular Section 2.2.1d  
3 requires full documentation of all source data as well as  
4 detailed data collection methodology. And as Mike  
5 explained, we have a significant level of detail in our work  
6 papers.

7           Those work papers are available to the  
8 Missouri Commission Staff, and again, Missouri Commission  
9 Staff was a very active participant in the process. They  
10 attended weekly meetings discussing status and were involved  
11 in the process throughout.

12          The second item that we wanted to talk about  
13 is Section 2.2.1e, and this requirement required us to issue  
14 the interim report indicating all our findings in regards to  
15 the work that we've performed.

16          We issued those reports on October 10th, 2000.  
17 These reports provide the results of the data validation  
18 process and the results of procedures performed in relation  
19 to the capacity test. We believe that the issuance of these  
20 draft reports complied with the requirements of this  
21 Commission.

22          The last item is Section 2.2.1h. In this one,  
23 we were required to provide a supporting documentation that  
24 describes the underlying approach of the evaluation and  
25 validation of production and/or test data. In this document

2715  
1 we issued on October 10th, our scope and approach  
2 documentation, we believe that walk-through in sufficient  
3 detail to understand the approach that we took during our  
4 engagement.

5          In addition, hopefully today's presentation will  
6 again enhance the level of effort and the actual procedures  
7 that we used to perform the engagement.

8          With that, that concludes our formal  
9 presentation, and we'll open it up to the Commission for  
10 questions.

11          JUDGE DIPPELL: Do the Commissioners have  
12 questions for Ernst & Young? Commissioner Lumpe, would you  
13 like to begin?

14          CHAIR LUMPE: Essentially this tells us the  
15 methodology and all the steps you went through to provide  
16 what the Request for Proposal asked for; is that correct?

17          MR. DOLAN: Yes.

18          MR. HORST: Yes.

19          CHAIR LUMPE: And then the bottom line, are  
20 you going to tell us what you found?

21          MR. HORST: The bottom line in our report --

22          JUDGE DIPPELL: Can I interrupt just one

23 moment? Can we go ahead and turn off the projector?  
 24 MR. WINTER: Sure. Did you want us to move  
 25 it?  
 2716  
 1 JUDGE DIPPELL: I was going to say, can it be  
 2 moved and then we'll be able to see?  
 3 Let's go off the record just a moment.  
 4 (Discussion off the record.)  
 5 JUDGE DIPPELL: We can go back on the record.  
 6 I apologize. I wanted to get that out of the way.  
 7 Chair Lumpe, you had a question?  
 8 CHAIR LUMPE: I'm looking at Attachment A of  
 9 what you provided us, and as I understand, you've coded that  
 10 in gray, yellow and green, and that tells us which ones were  
 11 excluded, which ones were included and included by what  
 12 party; is that correct?  
 13 MR. HORST: I'm sorry. Which report?  
 14 CHAIR LUMPE: I'm looking at this Attachment A  
 15 of this report that you sent to us.  
 16 MR. HORST: Okay.  
 17 CHAIR LUMPE: And you've got yellow and green  
 18 and gray colors there.  
 19 MR. HORST: Right.  
 20 CHAIR LUMPE: And those tell us which ones you  
 21 picked to do the more extensive testing on?  
 22 MR. HORST: Right.  
 23 CHAIR LUMPE: Is that correct?  
 24 MR. HORST: Right. The yellow were picked by  
 25 the FCC and the Missouri Public Service Commission. The  
 2717  
 1 green were picked by us randomly, and the gray are a listing  
 2 of measures that were excluded from the scope of the testing  
 3 because they were taken out in 1.7.  
 4 CHAIR LUMPE: Okay. So in essence, do we have  
 5 1.7 here as opposed to 1.6 or we have -- which do we have?  
 6 MR. HORST: No. We have -- we tested 1.6  
 7 excluding the measurements that were going to be removed  
 8 once 1.7 was adopted.  
 9 CHAIR LUMPE: Okay. I was trying to find out  
 10 what I've got. And then again to my question, the bottom  
 11 line, what did you determine?  
 12 MR. HORST: The bottom line on the performance  
 13 measurement validation is that we issued an unqualified  
 14 opinion that management's assertion is accurate, and their  
 15 assertion says that their performance measurements are in  
 16 compliance with the Missouri business rules, and they noted  
 17 certain exceptions which are in their Attachment A.  
 18 So bottom line, we're issuing an unqualified

19 opinion that that report is correct.

20 CHAIR LUMPE: And the exceptions, are they  
21 identified somewhere in here also?

22 MR. HORST: The exceptions are listed in  
23 Attachment A to management's assertion.

24 CHAIR LUMPE: Okay. And then Attachment B,  
25 what are you telling me in Attachment B?

2718

1 MR. HORST: Of which report?

2 CHAIR LUMPE: The same one.

3 COMMISSIONER DRAINER: Applications and  
4 platforms.

5 CHAIR LUMPE: Applications and platforms,  
6 included with the package you mailed us or gave to us.

7 MR. KELLY: That should just be a listing of  
8 background information of the actual applications for  
9 Southwestern Bell that are used in this process.

10 CHAIR LUMPE: All right.

11 MR. KELLY: It's more background to understand  
12 more easily.

13 MR. DOLAN: It gives a detailed discussion of  
14 our procedures, what we followed. It's not necessarily  
15 intended to present a conclusion. It's just background  
16 information.

17 CHAIR LUMPE: Then this is somewhat -- would  
18 be similar to your presentation?

19 MR. DOLAN: Yes.

20 CHAIR LUMPE: Okay. Fine. Thank you. I  
21 think that's all I have at this point.

22 JUDGE DIPPELL: Okay. I did want to clarify  
23 for the record that before we went on the record this  
24 morning I premarked the hard copy of Ernst & Young's  
25 presentation as an exhibit and gave it an exhibit number so

2719

1 it could be attached to the transcript just so that it was  
2 clear what they were referring to during the presentation,  
3 and that exhibit number for identification was 138.

4 Vice Chair Drainer, did you have a question  
5 for Ernst & Young?

6 COMMISSIONER DRAINER: Well, let me first  
7 follow up with a clarification on the performance measures  
8 selected for testing and the 55 that were picked.

9 You have color coded the 7 that you randomly  
10 picked as green and the 36 that were Missouri Public Service  
11 Commission, including the FCC's 36. If there was an area  
12 that they were excluded, such as the miscellaneous  
13 administrative, that subsection on page 1 of the performance  
14 measures selected for testing, they were either excluded or

15 they were not included, and that's 21 through 26.

16 And since that is a whole subgroup, I guess my  
17 question is, to Ernst & Young or to Staff, was there any  
18 discussion that there needed to be one of the elements or  
19 one of the subgroups there, 22, 23, 25 or 26, added or felt  
20 that it was adequately covered in another area?

21 MR. KELLY: We did a couple things around  
22 this. A random sampling, we had the chance of selecting any  
23 different PMs we had, and that one area and I think there's  
24 one other one that didn't have that. We did two things to  
25 kind of help alleviate that. We did our analytic review of

2720  
1 all the PMs.

2 COMMISSIONER DRAINER: I'm sorry. I didn't  
3 hear you.

4 MR. KELLY: We did an analytic review of all  
5 102 PMs in the three-month period to make sure that any  
6 anomalies or things like that didn't pop up and we'd  
7 investigate. So we were trying to cover any of the ones  
8 that we didn't specifically test within the 55.

9 And then by going through the other 55, we  
10 should have hit the main, the systems and the processes  
11 related to some of this as well. So we hit it in two  
12 different ways even if we didn't specifically test a couple  
13 of those.

14 COMMISSIONER DRAINER: So even though they  
15 weren't specifically a part of the test, each element was  
16 looked at?

17 MR. KELLY: Right.

18 COMMISSIONER DRAINER: Then with respect to  
19 the Appendix C in your report on independent accountants on  
20 applying agreed-upon procedures, you have Appendix C? That  
21 goes through and looks at test results, and where there was  
22 a month that they did not meet the test result it was  
23 blocked out in red, correct?

24 MR. KELLY: Correct.

25 COMMISSIONER DRAINER: My question, and I

2721  
1 don't know how to do this other than to just go through it,  
2 is my question with the ones that are blocked out in red, I  
3 wanted to understand what it was telling me, and I was  
4 concerned about the ones that in recent months were still  
5 having issues.

6 The first one would have been on page 2 of  
7 that attachment which would have been the due date, and it  
8 had a benchmark of one second and showed that in September  
9 it did not meet that. It was 1.6. And I guess I would like  
10 to know what those numbers are telling me. Are you with me

11 on where I am?

12 MR. KELLY: Maybe to try and explain this  
13 report a little bit from our aspect, what we did here is we  
14 were trending the actual measurements for these four  
15 specific PMs from September of last year to September of  
16 this year looking for obvious degradation of services,  
17 things like that.

18 What you have is the actual -- on the  
19 left-hand side you have the PM, and there's different  
20 versions or disaggregations of that PM. The benchmark is  
21 what's listed in the second column. So in some cases, like  
22 in the columns where you're talking we see the red, the red  
23 relates back to the benchmark or the parity check. Okay.

24 So we -- the purpose of our work that we did  
25 was actually to go through and look for significant trends

2722

1 here. Like, one PM we just drop off because was it due to  
2 performance, was it due to capacity, things like that.

3 COMMISSIONER DRAINER: Well, how could you  
4 answer then for me when I look at the due date on the first  
5 PM where it has -- it would be the second page of that  
6 attachment, I believe.

7 MR. KELLY: Right.

8 COMMISSIONER DRAINER: Right. And then in  
9 September it shows 1.6 and it has 25,583. Okay. You've  
10 highlighted that. You have a benchmark of one second. So  
11 what is that telling me? You've highlighted it. What does  
12 that mean has happened?

13 MR. HORST: That means that the Southwestern  
14 Bell Telephone Company did not meet the benchmark for that  
15 particular measurement for that particular month.

16 COMMISSIONER DRAINER: What didn't they meet?  
17 What happened? What was the actual activity, or can you not  
18 tell me that? Do I have to go through this report then with  
19 Southwestern Bell and the parties to ask why?

20 MR. HORST: Yes.

21 COMMISSIONER DRAINER: Ask them?

22 MR. HORST: You will need to. The nature of  
23 this engagement is we performed procedures we were told to  
24 do and provided the results.

25 COMMISSIONER DRAINER: Okay. So I can take

2723

1 this report later in this hearing and go through each one  
2 and they didn't meet it and what have they done to correct  
3 it?

4 MR. HORST: Right.

5 COMMISSIONER DRAINER: All right. So that  
6 answers that.



7 And then I only have one other question, just  
8 so I'm understanding what I have, and that is, with respect  
9 to the report of management on compliance with the business  
10 rules, Attachment A, I just wanted to know -- this is a  
11 follow-up to Chair Lumpe's question.

12 Is this the report that you were referring to  
13 when she said where there were anomalies or Southwestern  
14 Bell said they weren't in compliance, there were exceptions,  
15 is this what you're talking about?

16 MR. KELLY: Yes.

17 MR. DOLAN: Yes.

18 COMMISSIONER DRAINER: And again, then, later  
19 in the hearing I should be asking the company and other  
20 parties specifically how those have been addressed to  
21 correct those issues?

22 MR. KELLY: Right.

23 COMMISSIONER DRAINER: Okay. Thank you. That  
24 answers my questions. I appreciate it.

25 JUDGE DIPPELL: Commissioner Murray, did you

2724 1 have questions?

2 COMMISSIONER MURRAY: Yes. Thank you.

3 Following up just briefly on the same  
4 document, Attachment C to your November 1st report, did that  
5 show any trend that we can see from looking at that document  
6 itself with any of the performance measures?

7 MR. KELLY: On the agreed-upon procedures, the  
8 capacity level?

9 COMMISSIONER MURRAY: Yes.

10 MR. KELLY: In the work that we did in looking  
11 at it, we didn't see any obvious degradation of the  
12 measurements, the four measurements for the period. If you  
13 look through some of them, you can see they had trouble with  
14 some of the measurements last year, and a couple like the  
15 ones that Commissioner Drainer was referring to they've had  
16 some instances where they dropped, but there isn't any  
17 obvious trends related to performance or capacity.

18 Now, meeting the benchmark or the parity is a  
19 separate question outside of that. From the capacity of the  
20 OSS, it looks like they can handle the Missouri commercial  
21 volumes.

22 COMMISSIONER MURRAY: So you don't see -- what  
23 you're saying is you see no degradation trend with any of  
24 those performance measures?

25 MR. KELLY: Correct.

2725 1 COMMISSIONER MURRAY: And then the performance  
2 measures that were the exceptions, the shown exceptions --

3 well, let me start again.

4 You stated that management's assertion that  
5 their performance measures comply with Missouri business  
6 practices is fairly stated in all material respects with  
7 certain shown exceptions, I believe was your wording.

8 And with those exceptions, do you have an  
9 opinion as to any activity that Southwestern Bell has taken  
10 in relation to those exceptions to correcting those?

11 MR. KELLY: Do they actually correct them, are  
12 you asking us, or do they --

13 COMMISSIONER MURRAY: Do you have an opinion  
14 as to whether they appropriately addressed those exceptions?

15 MR. KELLY: They appropriately addressed the  
16 ones -- we actually followed up on the ones in Attachment A  
17 where they talked about changes. We actually went back  
18 through and validated and made sure those changes were  
19 appropriate.

20 COMMISSIONER MURRAY: And that is without  
21 exception?

22 MR. KELLY: Right.

23 MR. HORST: There is one indication here on  
24 performance measurement -- page 4 of 5 on Attachment A,  
25 which is PM 57. There's a statement in here that PM 57 was  
2726

1 going to be restated with the October 20, 2000 reports.  
2 That actually is not going to take place until November from  
3 our understanding.

4 So that's the one exception that's in there,  
5 but that's not a material exception that would impact our  
6 report on the performance measurements.

7 COMMISSIONER MURRAY: Tell me where you are  
8 again.

9 MR. HORST: It's page 4 of 5 of Attachment A,  
10 and it's letter G, and it's PM 57.

11 COMMISSIONER MURRAY: Attachment A to which  
12 document?

13 MR. HORST: To the Report of Independent  
14 Accountants.

15 COMMISSIONER MURRAY: Dated October 10?

16 MR. HORST: It's dated November 1st.

17 MR. DOLAN: Second page of our report.

18 COMMISSIONER MURRAY: I only have one page of  
19 Appendix A.

20 JUDGE DIPPELL: There are two documents titled  
21 Report of Independent Accountants.

22 COMMISSIONER MURRAY: Okay.

23 JUDGE DIPPELL: One deals with the --

24 COMMISSIONER MURRAY: You're saying page 4

25 then of Attachment A?

2727

1 MR. DOLAN: Management's assertion.

2 COMMISSIONER MURRAY: And which one are you  
3 talking about?

4 MR. KELLY: Item G.

5 COMMISSIONER MURRAY: Item G. Okay. And then  
6 my other question is that I believe you stated your on-site  
7 evaluations were all in Texas; is that correct?

8 MR. KELLY: Right.

9 COMMISSIONER MURRAY: And is that because you  
10 had made an earlier determination that all of the -- that  
11 there was only one system used in five states?

12 MR. KELLY: Right. It's one OSS. It's a  
13 combination of systems that make up their OSS for  
14 Southwestern Bell. All the orders from CLECs and so forth  
15 flow into the LSC/LOC in Dallas. So that's where we  
16 performed our procedures related to the LSC/LOC import work  
17 analysis.

18 MR. DOLAN: The acronyms.

19 MR. KELLY: Yeah. The local service center  
20 and the local operations center.

21 COMMISSIONER MURRAY: Okay. Do you have any  
22 reason to doubt that on-site evaluations in Texas would be  
23 relevant to those -- to similar on-site evaluations in  
24 Missouri?

25 MR. KELLY: No. In addition to the Dallas

2728

1 reviews and on-site reviews that we did, we also performed  
2 all the ride-alongs in Missouri with the technicians.

3 COMMISSIONER MURRAY: Those were in Missouri?

4 MR. KELLY: Right.

5 MR. HORST: The local service center and local  
6 operations center is the five-state regional operation which  
7 includes Missouri, Texas, Arkansas, Kansas and Oklahoma, and  
8 that's located in Texas, but it's handling the operations  
9 for the entire company.

10 COMMISSIONER MURRAY: I believe that's all I  
11 have. Thank you very much.

12 JUDGE DIPPELL: Commissioner Simmons, did you  
13 have questions for Ernst & Young?

14 COMMISSIONER SIMMONS: Yes, I did. Excuse me.  
15 We have some difficulties here, and I think that you could  
16 help us tremendously. I'd like to know if you can tell us,  
17 who's the president of the United States today?

18 (Laughter.)

19 Don't answer that. That's okay. I'm glad  
20 you're loosened up a little bit. Thank you.

21 I do have a question relating to November 1st,  
22 2000, your letter to the management of SBC. Could you  
23 clarify something for me that's in your third paragraph  
24 there, and I'm real interested in this sentence that kind of  
25 says, Had we performed additional procedures, other matters

2729

1 might have come to our attention that would have been  
2 reported to you.

3 Is that suggesting to me or is that telling me  
4 that you know of something else that could have been done,  
5 should have been done, but it was not in the scope of what  
6 you needed to do to come up with some additional information  
7 that we just don't have?

8 MR. HORST: No. What that is, is that's  
9 standard language from the American Institute of Certified  
10 Public Accountants that is required any time that you are  
11 issuing a report on agreed-upon procedures.

12 And the intent of that language is to make it  
13 clear that this is not an examination, which is the highest  
14 level of assurance. Under this form of engagements, we are  
15 performing procedures and we're telling you the results, and  
16 it is in no way meant to indicate that there were some other  
17 procedures we thought of that might have told something  
18 else.

19 MR. DOLAN: We are doing the procedures that  
20 were requested of us. The other thing the Commission asked  
21 us to do is did we think any other procedures needed to be  
22 done as a result of the outcome of that, and our answer to  
23 that was we did not think so.

24 COMMISSIONER SIMMONS: And with that, is this  
25 the first time we're doing something like this in the

2730

1 country? Is this the first time you've done something  
2 similar to that?

3 MR. HORST: In terms of a report of that  
4 nature?

5 COMMISSIONER SIMMONS: Yes.

6 MR. HORST: No. We just got done issuing a  
7 similar report for the FCC, and it was related to actually  
8 SBC's treatment of their separate affiliate, separate  
9 advance services affiliate. We performed agreed-upon  
10 procedures and reported findings in this same format.

11 MR. DOLAN: Additionally, the FCC has adopted  
12 requirements going forward. Once companies are allowed in  
13 long distance, they're subject to biannual audit  
14 requirements, and the nature of those engagements is  
15 agreed-upon procedures.

16 So that is the nature of the engagement that

17 long distance companies such as the RBOC for long distance  
18 subsidiaries of the regional Bell operating companies will  
19 have to perform agreed-upon -- have to go through  
20 agreed-upon procedure audits as a result of being in the  
21 long distance business.

22 So that's the format that they are selecting  
23 in terms of an auditor's approach. That's what they're  
24 mandating. So that's indicative of what is, I think, things  
25 to come.

2731

1 COMMISSIONER SIMMONS: Thank you very much.  
2 That's all the questions I have.

3 JUDGE DIPPELL: Chair Lumpe, did you have  
4 additional questions?

5 CHAIR LUMPE: One. You used benchmarks  
6 through here. Is that -- was that a change from 1.6 to 1.7?  
7 Because in various other performance measures we saw parity.  
8 Was there a change from parity to benchmarks or does it vary  
9 throughout?

10 MR. KELLY: It varies by PM. We use  
11 Version 1.6, but a PM could have a benchmark or could have a  
12 parity. So it depends on which PM you're looking at  
13 basically.

14 CHAIR LUMPE: In the change to 1.7, is that  
15 the same or --

16 MR. KELLY: Same language.

17 CHAIR LUMPE: Sometimes it's parity and  
18 sometimes it's benchmark?

19 MR. KELLY: Right.

20 CHAIR LUMPE: Okay. Can we ask Staff if  
21 they'd like to comment?

22 JUDGE DIPPELL: Certainly.

23 CHAIR LUMPE: Mr. Winter or Mr. Stueven, do  
24 you have some comment you'd like to make on your -- on this  
25 report and how you feel about it?

2732

1 MR. STUEVEN: On the -- on the capacity.

2 JUDGE DIPPELL: Could I get you to go ahead  
3 and come forward, Mr. Stueven?

4 MR. STUEVEN: Okay. On the capacity test, as  
5 we had pointed out in the filing last week, we looked at  
6 what the FCC had said in the Texas order on what they  
7 thought was the best evidence to determine OSS capacity and  
8 that's commercial volumes, and they said that the  
9 Southwestern Bell systems were already processing commercial  
10 volumes.

11 So based on that, what we wanted to do was  
12 have them look at what Telcordia did, which they did, and

13 then just carry that forward to ensure that to validate  
14 what -- not validate what Telcordia did, but make sure that  
15 it covered the volumes that we had that covered the Missouri  
16 volumes, and it did that.

17 And I think it gave us enough information from  
18 Staff's point of view that gave us the comfort level that  
19 the capacity was sufficient to cover Missouri.

20 CHAIR LUMPE: For commercial volume?

21 MR. STUEVEN: For commercial volumes, yes.

22 CHAIR LUMPE: And this would be the evidence  
23 that we would need to make that assertion?

24 MR. STUEVEN: Staff believes that the evidence  
25 that -- or the information that Ernst & Young provided is

2733

1 sufficient to make that -- to make that decision, yes.

2 CHAIR LUMPE: And the capacity for commercial  
3 volumes goes to the equipment, the staff, the training and  
4 all of those factors?

5 MR. STUEVEN: Right. Basically, what we have  
6 left is, is their performance sufficient, and that's looking  
7 at the performance measures and whether they meet the  
8 benchmarks or the parity and making a decision on that  
9 aspect based on how they actually perform.

10 If their performance isn't sufficient, then  
11 they need to do something else. If it is, then it's Staff's  
12 position they would be fine.

13 CHAIR LUMPE: When you say that, the  
14 performance being sufficient, does this sort of suggest to  
15 me that there are things in place but what's in place is not  
16 actually performing?

17 MR. STUEVEN: This kind of bleeds into -- John  
18 Van Eschen has looked at the performance measures and the  
19 results of them, and we mentioned some in our filing where  
20 we thought that the company needed to do things to improve  
21 their performance, and we mentioned those in our filing.  
22 Mr. Van Eschen can address those in more detail than what I  
23 can.

24 CHAIR LUMPE: Okay.

25 MR. WINTER: Excuse me. David Winter again

2734

1 with the Commission Staff.

2 We are more than satisfied with the work that  
3 Ernst & Young did on this project concerning the validation  
4 of the information for the performance measurements. We're  
5 satisfied because we were involved in every step of the  
6 process from the issuance of the RFP through their work, and  
7 also we have done -- looked at samples of their work papers  
8 and were involved in the process. We're very satisfied.

9 As a follow-up to the question that  
10 Commissioner Simmons had, this is the first time any state  
11 commission has looked at -- and this is part of what Ernst &  
12 Young did -- a validation of the data itself, the CLEC data  
13 and the Southwestern Bell Telephone data.

14 So when we look at the performance measures we  
15 can measure apples and apples. Instead of having not one  
16 validated, the other validated, well, this case we've  
17 validated both pieces of data, the Southwestern Bell  
18 Telephone data and the CLEC data. So when you look at  
19 performance measurements, then we know we're doing a correct  
20 valuation or comparison of the case.

21 CHAIR LUMPE: Okay. Thank you, Mr. Winter.

22 JUDGE DIPPELL: Vice Chair Drainer, did you  
23 have additional questions?

24 COMMISSIONER DRAINER: Yes. I will have  
25 questions for Staff and Company on the report. But for

2735 1 Ernst & Young I guess my final question is just back in  
2 reference to your attachment where you did the trend  
3 analysis of September through September, and for those areas  
4 that had continually not met the benchmark, especially with  
5 respect to the LEX system and manual system, and with the  
6 manual system one of the areas has had a lot of issues that  
7 have been under the benchmark, and actually, although it may  
8 not be a scientific trend downward, it is showing that they  
9 not only don't meet the 95 percent but have had a number of  
10 percentages that go lower.

11 Did you make any additional assessment of that  
12 or just basically validated that that's what the data  
13 showed?

14 MR. KELLY: Let me try and clarify one thing  
15 here. We have two issues here. The work we did looked at  
16 the capacity of their systems, could they handle volumes.  
17 The issue of performance and meeting the benchmark of parity  
18 is independent but separate from that.

19 There may be other reasons why they didn't  
20 make a benchmark not related to capacity. It could be an  
21 execution of something that failed to get done but the  
22 systems could handle it.

23 COMMISSIONER DRAINER: Or it could be human  
24 error that could happen, but as far as the actual systems  
25 that are in place they can handle it?

2736 1 MR. KELLY: Right.

2 COMMISSIONER DRAINER: And that was your --

3 MR. DOLAN: Primary focus.

4 MR. KELLY: We looked at the systems, could

5 they handle the volumes, and then Southwestern Bell would  
6 need to answer why they didn't meet the benchmark or parity  
7 measurement.

8 COMMISSIONER DRAINER: All right. Thank you  
9 very much.

10 JUDGE DIPPELL: Commissioner Murray, did you  
11 have any additional questions of Ernst & Young?

12 COMMISSIONER MURRAY: I don't believe so.  
13 Thank you.

14 JUDGE DIPPELL: Commissioner Simmons?  
15 COMMISSIONER SIMMONS: Not at this time.

16 Thank you.  
17 JUDGE DIPPELL: All right. Then  
18 Mr. Cowlshaw, you had a question?

19 MR. COWLISHAW: Pat Cowlshaw, your Honor, for  
20 AT&T.

21 I guess I wanted to inquire whether the  
22 Commission would entertain any comments from the parties  
23 regarding the report before Ernst & Young is excused in the  
24 event that anything any of us might raise would prompt a  
25 question to them.

2737  
1 JUDGE DIPPELL: I think this might be an  
2 appropriate time to allow the parties to comment. Did you  
3 have specific comments, Mr. Cowlshaw? Would you like to  
4 lead?

5 MR. COWLISHAW: Yes, your Honor, if I might.  
6 AT&T has been looking forward with a lot of anticipation to  
7 this validation. We've, I think it's fair to say,  
8 aggressively advocated for it during the hearings we had  
9 here in March of 1999 and have been concerned about  
10 establishing the reliability of this data across the  
11 Southwestern Bell region and have been very pleased that the  
12 Commission, as Mr. Winter pointed out, was the first  
13 commission to actually require a process like this as part  
14 of a 271 proceeding.

15 Without going into a lot of detail, I guess  
16 the primary reaction and concern I have on behalf of AT&T  
17 standing here this morning is a feeling of some emptiness as  
18 what's been presented is an explanation about a lot of work  
19 that apparently has gone on, very, very little of which --  
20 well, I would say virtually none of which appears in the  
21 report and we've been given a sample of in today's  
22 presentation.

23 And what we have in the report is a very  
24 high-level description of the process that Ernst & Young  
25 engaged in, and then we have the ultimate conclusion

2738



1 expressed in the letter in the form that's prescribed by the  
2 guidelines that were referred to in their presentation.

3 But what we at least haven't been able to look  
4 at, and I understand Staff probably has, but we have not as  
5 parties outside of Southwestern Bell been able to look at is  
6 how did they get from doing the steps that they say they  
7 executed to their ultimate conclusion.

8 And if you look at page 13 of their  
9 presentation that was passed out this morning, I think, for  
10 example, the statement was made, the first bullet item there  
11 is, Mapped process flows and documented activity  
12 dictionaries for each of the 55 measures they reviewed. And  
13 then there's an example of that a couple of pages in about  
14 the process flow and the activity dictionary.

15 I would have hoped and would hope at least at  
16 this point in time that there would be an opportunity for  
17 everyone to see the process flow and the activity dictionary  
18 for each of the measures that was prepared by Ernst & Young.

19 Among other things, the parties have been  
20 working with Southwestern Bell, or were before we got  
21 distracted by the four simultaneous 271s, on an agreed  
22 description of the processes that are used in this data  
23 collection gathering, and the work at Ernst & Young may be  
24 very valuable to the parties in arriving at that document,  
25 but that's a first step in understanding what they did.

2739

1 And it sort of applies to each of the items  
2 listed on page 13. They performed transaction testing to  
3 verify the integrity of data flows. That's presumably  
4 documented. I think there's an example of that again for PM  
5 32 further back in the package.

6 That suggests to me that there's a document  
7 like that that tells what they found when they did  
8 transaction testing PM by PM that's somewhere in their work  
9 papers or materials they prepared, and again, I would have  
10 thought and request that the parties all have an opportunity  
11 to look at that type of material.

12 I think the goal here is to establish  
13 fundamentally to your satisfaction that this process is  
14 operating to produce accurate and reliable data.

15 If we're to give you intelligent input on the  
16 work that Ernst & Young performed, we need to have some  
17 understanding of, when they say they went out and did  
18 walk-throughs with Missouri technicians, what did they find?  
19 Apparently they found something that led them to the  
20 conclusion that the data was being entered accurately.

21 I would have thought we would have seen a  
22 report in some format that said by PM what did we find about

23 the walk-through, what did we find about the application of  
24 exclusions. And so when I look at the RFP and the  
25 requirements in the RFP of complete documentation, that's

2740

1 2.2.1d, page 25 of their presentation, there their response  
2 is that documentation is maintained in their work papers.

3 Well, can those work papers be made available  
4 to the public? There may be sections of them that have  
5 individual company data that need to be dealt with in some  
6 confidentiality way, but there's a lot of this where they're  
7 working on aggregate data, it appears, and that  
8 documentation I think should be publicly available.

9 2.2.1e called for technical conference with  
10 the parties following the issuance of the interim report,  
11 and I wouldn't have understood that to be a presentation  
12 after the issuance of the final report, but we never had the  
13 opportunity to do that.

14 And finally 2.2.1h provides for the supporting  
15 document, and we thought that was a very important  
16 requirement of the RFP all along, a document that would  
17 provide a description of their work and their methodology  
18 with lists of all the production and test data obtained for  
19 each performance measurement, all in sufficient detail to  
20 allow uninvolved third parties -- this is your RFP -- to  
21 fully understand how the evaluation and validation of  
22 production and/or test data results were derived.

23 I think the only fair conclusion from that RFP  
24 requirement is that something more is required than the high  
25 level description of the work that was included in the

2741

1 actual report that's been provided today, and certainly  
2 there's not a listing of the production and test data  
3 obtained for each performance measurement in the report  
4 that's been passed out today.

5 And I would hope that that Ernst & Young would  
6 be willing and the Commission would agree that it would be  
7 appropriate for the underlying documentation that is  
8 supposed to meet these RFP requirements to be made available  
9 to the parties.

10 I will observe just a couple more things.  
11 There was discussion of the list of exceptions to the --  
12 that is included in the management report regarding the  
13 performance measure data accuracy, and I think a reference  
14 was made to one particular item as sort of still being  
15 outstanding, an item that was going to have to be restated  
16 in November rather than -- rather than October. That was  
17 item G on page 4 of 5 of Attachment A to the Report of  
18 Management on Compliance with Business Rules.

19 I believe it's also true that the immediately  
20 following item regarding a coding error on performance  
21 measures 27 through 33, which has to do with meeting due  
22 dates, installation intervals, POTS and POTS resale and UNEP  
23 orders, this is an issue about a coding error in  
24 categorizing particular transactions as either being  
25 attributable to CLEC fault, in which case they don't count

2742

1 against Southwestern Bell under the business rules, or were  
2 they Bell's fault in which case they do.

3 And it's reported and there's been some  
4 discussion this last week in the Arkansas hearings that  
5 there was some set of errors in Southwestern Bell's doing  
6 that that worked unfavorably to the CLEC, to a particular  
7 CLEC who requested validation.

8 That's caused some examination of the  
9 reporting on these measures to go on, and this item reports  
10 that that's not going to be restated until November 20th and  
11 refers to an expected negligible impact, but it's obviously  
12 referring to something in the future that we don't yet know  
13 about, at least as described here. So that probably should  
14 have been included in the answer to that question.

15 I guess the other thing that confuses me a  
16 little in terms of some of the statements that have been  
17 made with respect to capacity testing this morning is it  
18 sounds like we've got something in the nature of opinions  
19 from Ernst & Young regarding the efficiency of the systems  
20 to handle Missouri commercial volumes.

21 And the last sentence of the first paragraph  
22 of their report on applying agreed-upon procedures says that  
23 they're making no representation regarding the sufficiency  
24 of those agreed-upon procedures for the purpose for which  
25 the report was issued or for any other purpose.

2743

1 So if they had that qualification, limitation,  
2 exclusion of making any representation on whether these  
3 procedures were sufficient for the purpose for which the  
4 Commission wishes to use them, I don't understand exactly  
5 how that squares with some of the things that have sounded  
6 more like an actual affirmative opinion on the adequacy of  
7 the capacity systems to handle capacity this morning.

8 Those would be my comments.

9 JUDGE DIPPELL: Thank you. Are there other  
10 comments from the CLECs?

11 Chair Lumpe, you had a question?

12 CHAIR LUMPE: Yes. And I recall reading that  
13 somewhere, and maybe it was in the Request for Proposal or  
14 in somebody's statement, that there was in that there would

15 be a technical conference that Mr. Cowlshaw talked about.  
16 Is there a proposal to have that technical conference or  
17 what?

18 MR. STUEVEN: I don't have the contract --  
19 hopefully everybody can hear me. I don't have the contract  
20 in front of me. My recollection of that was that that was  
21 an option, if necessary, to resolve issues, if Ernst & Young  
22 had issues that would be -- that they might be involved in a  
23 technical conference.

24 Like I say, I don't have the actual contract  
25 language in front of me, but that was my recollection, that

2744

1 it was an option, not a requirement.

2 CHAIR LUMPE: And the option was basically for  
3 Ernst & Young if they had questions, is that what you're  
4 saying? What was -- who got the option, Staff? I mean, was  
5 it an option for Staff to have a technical conference? Was  
6 it an option for Ernst & Young to have a technical  
7 conference?

8 MR. STUEVEN: I think it would have been  
9 either. If Staff thought a technical conference was  
10 necessary or required, then we could have forced the issue,  
11 or if Ernst & Young based on comments thought a technical  
12 conference was necessary for the report, they could have  
13 asked for one as well.

14 CHAIR LUMPE: All right. Thank you.

15 JUDGE DIPPELL: Vice Chair Drainer.

16 COMMISSIONER DRAINER: What I wanted to ask --  
17 I had a question, but what I wanted to ask first was I  
18 thought Mr. Cadieux had his hand up, and I was going to let  
19 him respond before I asked my question.

20 JUDGE DIPPELL: Mr. Cadieux?

21 MR. CADIEUX: I'll try to speak loudly so I  
22 don't have to move up.

23 My comment or question is really in the way  
24 of, I guess, expressing a little confusion and hope to get  
25 maybe some clarification in terms of what your Ernst & Young

2745

1 report purports to attest to, if anything, with respect to  
2 the -- and let me just, I don't know the term of art that  
3 might be used here, but the accuracy of the raw data that  
4 would flow through.

5 Let me give you an example. To the extent a  
6 particular customer installation, there has to be a judgment  
7 as to whether, if the due date is missed, if it's a  
8 Southwestern Bell caused due date or a CLEC caused due date  
9 or customer caused due date.

10 Obviously a judgment has to be made there

11 internally at Southwestern Bell as to what category a  
12 particular installation should fall into.

13 I guess my question is, to what extent, if  
14 any, does the Ernst & Young report attest to the accuracy to  
15 which Southwestern Bell has been assigning those customer  
16 installation or other activity instances and to what extent,  
17 if any, does the Ernst & Young report purport to offer an  
18 opinion as to the adequacy of procedures in the process at  
19 Southwestern Bell to ensure that those instances are  
20 accurately characterized in terms of future activity.

21 It's not clear to me whether the Ernst & Young  
22 report purports to offer an opinion.

23 JUDGE DIPPELL: Thank you. Vice Chair  
24 Drainer, did you have additional questions?

25 COMMISSIONER DRAINER: Well, it seems there's  
2746

1 a two-prong type question here. One is the more micro type  
2 questions such as the accuracy of the input that -- how  
3 Ernst & Young validated the information that was put in and  
4 who would be at fault should they not be meeting a  
5 benchmark.

6 I think the second one is the more macro  
7 question of -- and I would ask Staff and AT&T and  
8 Mr. Cadieux, with respect to this process that's been going  
9 on, it's been no secret that Ernst & Young has been doing  
10 this report and if you had attempted to be more involved in  
11 the process or asked Staff to put together a conference  
12 before the hearing before the Commissioners so that you  
13 could give comments on the report and -- or were you under  
14 the impression that we were not getting maybe more an  
15 executive summary but basically six boxes of work papers?

16 And so I'm a little concerned that -- I'm  
17 feeling a little blindsided, to be quite honest, that we're  
18 being asked today to discuss work papers, and I wonder why  
19 that wasn't discussed among the parties, or was it? And so  
20 I guess I'd ask our general counsel, Mr. Joyce, who's  
21 shaking his head if he -- or Mr. Van Eschen, our manager of  
22 telecommunications, if the two of you could address that.  
23 Did any parties express concerns to you before today? Are  
24 you as blindsided as I am?

25 MR. JOYCE: Well, the reason I was shaking my  
2747

1 head was the Commission set out a process for comment on the  
2 report after it was filed, and I believe that would have  
3 been the appropriate time for some of these concerns to have  
4 been expressed. And I think I personally, as one member of  
5 the Staff, am feeling a little surprised that these comments  
6 are arising today.

7 COMMISSIONER DRAINER: I do believe that in  
8 the comments that were filed, I think AT&T did express a  
9 concern. Maybe I -- I read a lot, but I think you did  
10 express something.

11 MR. COWLISHAW: Your Honor, Pat Cowlshaw for  
12 AT&T.

13 I believe that we raised this -- I mean,  
14 Staff, we met back prior to the issuance of the RFP and had  
15 some input at that time. Since that time, we have not had  
16 input, but I believe we raised this in a motion with respect  
17 to a scheduling order back before any testimony was filed in  
18 this case and made some proposals regarding opportunity for  
19 conferring with Ernst & Young and Staff after issuance of  
20 the interim report and made some procedural suggestions.

21 COMMISSIONER DRAINER: That's a motion. Did  
22 you pick up the phone and talk to Staff about it?

23 MR. KOHLY: Matt Kohly with AT&T.

24 I don't know that I can say we made a formal  
25 request to participate, but certainly in discussions about  
2748

1 this, it was a process that we were not involved in, and it  
2 was a process that Staff was meeting with Ernst & Young that  
3 we were not.

4 COMMISSIONER DRAINER: But did you talk to  
5 Staff about the RFP and that there's -- that this process  
6 was going on with an independent consultant and you wanted  
7 to be more involved in the process with them or you had  
8 questions, or did we just stay tuned 'til the report came  
9 out?

10 MR. KOHLY: I believe we expressed an interest  
11 in being involved and the response was stay tuned until the  
12 report comes out.

13 COMMISSIONER DRAINER: But you did express  
14 that to Staff in an informal basis?

15 MR. KOHLY: I believe so, yes.

16 COMMISSIONER DRAINER: Who did you talk to?

17 MR. KOHLY: Bill Voight.

18 COMMISSIONER DRAINER: And what was the  
19 response from Staff?

20 MR. KOHLY: I certainly don't want to construe  
21 it as one of excluding us, but it was, We're meeting with  
22 Ernst & Young. You'll see the Report and Order, you know,  
23 set forth the procedure.

24 But I don't want to indicate at all that Staff  
25 was excluding us or ignoring our concerns. I think we were  
2749

1 all under the impression that there was an Order out there  
2 saying, Here's the process, here's the comments and this is

3 how it will be dealt with. And that's how we envisioned  
4 this going, but it is a process that we've expressed  
5 concerns through motions about being excluded from.

6 When the RFP went out originally, we thought  
7 it would be a very open process in which we and other CLECs  
8 would be involved. We certainly through the motions have  
9 expressed our concern.

10 MR. COWLISHAW: Your Honor, I'm not trying to  
11 raise a suggestion of exclusionary intent either on the part  
12 of Ernst & Young or Staff. I think Matt's described kind of  
13 our expectation about the process and if there was  
14 miscommunication about that, but I had understood it was  
15 kind of wait until the report comes out meaning the interim  
16 report.

17 And the RFP itself suggests that when the  
18 interim report comes out, that's when there would be things  
19 like comment and technical conference, and then we tried to  
20 make those suggestions both in the motion and in the  
21 testimony.

22 COMMISSIONER DRAINER: So do you believe that  
23 there has to be -- that it would be beneficial to have a  
24 technical conference with the parties now that the final  
25 report's out to answer any questions that you have with the

2750  
1 technical group?

2 MR. COWLISHAW: I believe that it would. I  
3 believe the -- kind of the, maybe the first or the prior  
4 concern, primary concern, would be to have access to the  
5 data that, if you will, shows the work.

6 It may be that, looking at that, you know,  
7 there's no need for a technical conference, but it could go  
8 in either direction. If it was thought to be easier to have  
9 a sit down and ask questions in a way that our format here  
10 won't permit, certainly that could be helpful.

11 COMMISSIONER DRAINER: All right. And then to  
12 the micro question on the accuracy of the data and the input  
13 that Mr. Cadieux brought up, I don't know if Ernst & Young,  
14 how the processes with each of the inputs, how you would --  
15 how you went about validating, how you made the call on a  
16 missed due date.

17 MR. KELLY: Right. Specifically to answer  
18 that question what we did is we actually sampled, performed  
19 a sample of orders and so forth and reviewed these and the  
20 one that came up. The sample that we did, we actually go  
21 through, we'd look at the coding, for example, a subscriber  
22 related or a CLEC related Southwestern Bell missed.

23 We looked at the OSS log for the sample and  
24 tried to determine, based on what was input, was the coding

25 that was done appropriate based on that transaction. We

2751

1 also did a variety of work around the prevent/detect  
2 controls for the technicians. I mentioned earlier that the  
3 technicians that have code of conduct in training, how to  
4 code these things, how you do them. We also looked at the  
5 detect, which is trending analysis they do on individual  
6 technicians, quality assurance and the GTS.

7 So we looked at both the process around this  
8 as well as the specific testing that we did to be able to  
9 get a comfort level of transactions and how well they were  
10 doing them.

11 COMMISSIONER DRAINER: And then finally,  
12 should the Commission request that there be a technical  
13 conference where you just sat down with all the parties to  
14 answer these type of questions and basically discuss, just  
15 discuss your work papers behind how you did all these  
16 measurements, is there any concern on your part or comments  
17 you'd like to make?

18 MR. DOLAN: Well, there isn't any concern on  
19 our part. Obviously we're here to serve our client or the  
20 Commission and SBC, and we're willing to do what they want  
21 us to do and instruct us to do. So we are here to serve.

22 COMMISSIONER DRAINER: Okay. Thank you very  
23 much.

24 JUDGE DIPPELL: Commissioner Murray, you had  
25 additional questions?

2752

1 COMMISSIONER MURRAY: Okay. Thank you. The  
2 question that I was going to ask following Mr. Cowlshaw's  
3 initial response was to Ernst & Young, and I just wanted to  
4 know, since the evaluation that you did was to determine  
5 compliance with acceptable business rules, is that an  
6 accurate classification?

7 MR. HORST: On the performance measurement  
8 validation, yes, we were determining the compliance with the  
9 business rules that they were accurate.

10 COMMISSIONER MURRAY: Okay. And that is  
11 comparable to doing a financial audit; is that correct?

12 MR. HORST: Yes, as it relates to performance  
13 measurement validation, yes.

14 COMMISSIONER MURRAY: And that would be to  
15 determine that the company is performing with acceptable  
16 accounting measurements or generally acceptable accounting  
17 principles?

18 MR. HORST: Yes. We did two things. We  
19 determined that the performance measurements were accurate  
20 and complete and in compliance with the business rules, and



21 the second thing we did is we tested that controls were  
22 effective for ensuring that those performance measurements  
23 were accurate and complete.

24 COMMISSIONER MURRAY: And in comparing it to a  
25 financial audit, my question to you is, when you do a

2753

1 financial audit, do you supply the work papers along with  
2 that audit?

3 MR. HORST: No, we do not. The work papers  
4 are -- if they're under our ownership, they are typically  
5 proprietary in nature, they're not shared with third  
6 parties, other than with regulators in certain instances.  
7 Like, in an example of the FCC engagement, we did share our  
8 work papers with the FCC audit staff.

9 MR. DOLAN: I think our professional standards  
10 would indicate that we have a custodial relationship with  
11 respect to the work papers. Our clients have a vested  
12 interest in those work papers, and upon instructions from  
13 our clients or directives from them, we will make the  
14 detailed record of our work available.

15 So it's basically we have a custodial  
16 relationship. They are proprietary, not available to the  
17 public. The record of our work is supported by our report,  
18 and our report stands on its own.

19 But under certain circumstances, as Brian  
20 indicated, our work papers are made available at the  
21 instructions of regulatory people as well as our clients.

22 JUDGE DIPPELL: Mr. Lane, you wanted to make a  
23 comment?

24 MR. LANE: I do. I want to respond a little  
25 bit to what Vice Chair Drainer called the macro issues and

2754

1 the EY work paper issue, explain what we thought we were  
2 agreeing to when the Commission asked us to do this audit.  
3 And has been said, it hasn't been required in any other  
4 state. It was a very expensive undertaking on our part, and  
5 we were willing to do that and did do it.

6 But it was our understanding that this was --  
7 the purpose of it was to have an independent third party,  
8 EY, come in and do this and do what is -- the report is a  
9 very standard report that's issued, as has been explained.  
10 That's what the FCC got. The only other thing the FCC got  
11 was their staff got to look at the work papers just as the  
12 Missouri Staff did.

13 But we have had to open up our entire business  
14 operations to EY in connection with this. It is highly  
15 proprietary information that was contained in their work  
16 papers, including things that would compromise potentially

17 the security of our computer systems, the entirety of our  
18 system architecture they have looked through to verify,  
19 program codes, source codes, other information that would  
20 cause us very, very significant harm.

21 That is one of the reasons why work papers  
22 like this are not made available. I will say this. A  
23 similar issue came up in Texas with the Telcordia report way  
24 back when when they did their capacity testing report. The  
25 Commission did not permit those things to be made public.

2755

1 AT&T took it to the Attorney General and tried to make those  
2 records public, and the Attorney General did not permit  
3 that.

4 We're seeing the same situation here. This is  
5 highly improper. We are not agreeable to it. The very  
6 purpose of this was to let an independent third party come  
7 in, and we opened our doors to them and let them see  
8 everything. It's not for the rest of the room to see. It's  
9 for the Staff to see, that was fine, and the Commission can  
10 make its opinion and its determination based on what's  
11 available to it.

12 COMMISSIONER DRAINER: Mr. Lane, I want to  
13 make it clear that when I asked the question, you did not  
14 hear me say would you turn over your work papers. That's  
15 why when I asked if there was a technical conference, they  
16 could discuss the more micro issues such as the accuracy of  
17 the data and how they addressed it based on they would have  
18 their work papers, they could look at what they have -- what  
19 Ernst & Young had, not that they had to hand it over. And I  
20 would want that made clear that at no time was I suggesting  
21 that. As somebody who has done technical work and had work  
22 papers, I never had to give my work papers over when I did  
23 testimony.

24 MR. LANE: Thank you.

25 JUDGE DIPPELL: Commissioner Simmons, did you  
2756

1 have any additional questions? We kind of got off the track  
2 there.

3 COMMISSIONER SIMMONS: Well, to my other  
4 Commissioners, I didn't want to jump ahead if there are  
5 still other companies that wanted to make comments as it  
6 relates to questions, but I do have one request is to find  
7 out whether or not the Office of Public Counsel would like  
8 to make any statements as it relates to the Ernst & Young  
9 report. And so I just wanted to see what the process is and  
10 save that to see if they had any other comments.

11 JUDGE DIPPELL: Let me just state, then, what  
12 I thought we'd do is see if there are any other comments

13 from the CLECs before Ernst & Young leaves, and then I'll  
 14 ask if there are comments from OPC and Staff or any other  
 15 parties other than CLECs, and then I'll give one final  
 16 opportunity to comment from Southwestern Bell before Ernst &  
 17 Young leaves.

18 COMMISSIONER SIMMONS: Thank you.

19 JUDGE DIPPELL: And obviously if the  
 20 Commissioners have questions during any of those comments,  
 21 feel free to let me know. Mr. Lumley?

22 MR. LUMLEY: I just wanted to try and clear up  
 23 one thing that Commissioner Murray was asking about. She  
 24 was using the phrase acceptable business rules, and I just  
 25 wanted to make sure it was understood that the phrase

2757

1 business rules refers to a set of procedures in the  
 2 performance measure, not just practices out in the business  
 3 community.

4 COMMISSIONER MURRAY: I understand that.  
 5 Thank you for the clarification.

6 JUDGE DIPPELL: Yes, sir?

7 MR. SIEGEL: Howard Siegel, IP Communications.  
 8 Let me preface my statement by saying that I  
 9 don't want to have too much of a role in relation to the  
 10 report because in my prior life I worked at the Texas  
 11 Commission during the Telcordia report process.

12 The one thing I just wanted to clarify for the  
 13 record is that, while the Telcordia report's scope was broad  
 14 and it included other things, a review of the report, you'll  
 15 see that there are hundreds of attachments to the Telcordia  
 16 report.

17 Basically the report with the attachments is  
 18 boxes and boxes. And while it may not include every  
 19 underlying work paper, there are tables upon tables upon  
 20 tables of summary data that explains, that shows percentages  
 21 that were achieved in this and that, and then you have the  
 22 report that then maybe summarized some percentages, and then  
 23 you may have had something above that that actually had  
 24 conclusions.

25 So I think there was -- there's probably --

2758

1 there may or may not be an intermediary level above actual  
 2 work papers, but that includes kind of the summary data that  
 3 Ernst & Young may have used to reach the conclusions.

4 Thank you.

5 JUDGE DIPPELL: Were there any other CLECs  
 6 that wanted to make comments?

7 MR. MORRIS: Steve Morris with WorldCom.

8 Mr. Cowlshaw touched on this, and that is it

9 appears that the Report of Independent Accountants on  
10 agreed-upon procedures in my mind seems inconsistent. If  
11 you look at the first paragraph it discusses the fact that  
12 Ernst & Young was going to make an evaluation or assist in  
13 an evaluation of the capacity of Southwestern Bell's OSS.

14 Yet in the third paragraph it says, We were  
15 not engaged to and did not perform an examination the  
16 objective of which would be to express an opinion on  
17 management's assertion that SWBT's five-state regional OSS  
18 are capable of supporting commercial preorder, and it goes  
19 from there.

20 And to me those two passages seem  
21 inconsistent. In my mind I read paragraph 1 and I infer  
22 from that that there was some examination or attestation as  
23 to the capacity of the OSS and yet in paragraph 3  
24 specifically says they did not.

25 Also in the power point presentation they go

2759  
1 into some detail, I think, starting on page 7 as to the  
2 processes used by Ernst & Young regarding OSS capacity. I  
3 would think that as an accountant that the official Report  
4 of Independent Accountants trumps anything in a power point  
5 presentation since this is dated and has the Ernst & Young  
6 signature.

7 But I would like an explanation as to at least  
8 what I see as an inconsistency in that report.

9 JUDGE DIPPELL: Thank you. Is there any  
10 comment from Ernst & Young on Mr. Morris' comment about  
11 the -- I guess his question is about the paragraph 1 and  
12 paragraph 3 of that. Can you explain further?

13 MR. DOLAN: I think what we had endeavored to  
14 show in our presentation is that this was an agreed-upon  
15 procedure engagement. The first paragraph describes the  
16 fact that we are performing procedures which are enumerated  
17 in the second page of the appendix of our report. These are  
18 procedures that were designed by the Staff as well as  
19 Southwestern Bell Telephone to solely assist in evaluating  
20 the capacity. We did the procedures that you wanted us to  
21 do.

22 What we were trying to say in the third  
23 paragraph is that this is not an examination. As Brian  
24 indicated what an examination is, it's the highest level of  
25 work that we can do. It results in an opinion. We're

2760  
1 trying to tell the world there in the third paragraph this  
2 is not an examination.

3 In the first paragraph we're trying to tell  
4 the world that we did certain procedures that you asked us

5 to do. That's the distinction, and it's not inconsistent.

6 JUDGE DIPPELL: Thank you. Were there any --  
7 did you have another question, Commissioner Drainer?

8 COMMISSIONER DRAINER: I only had one final  
9 thing, and that is to thank Ernst & Young for the extensive  
10 number of hours that you put in as an independent auditor in  
11 accounting to look at a process on such a short time frame  
12 to go back and look at an extensive amount of data, and to  
13 thank the Staff for working side by side with you on a  
14 weekly basis for the work in this report. I greatly  
15 appreciate it. And I appreciate you coming here today and  
16 giving us the presentation and answering our questions.

17 MR. DOLAN: Thank you.

18 MR. HORST: Thank you.

19 MR. KELLY: Thank you.